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September 19, 1977

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RHUMAN RIGHTS EVALUATION REPORT: ARGENTINA

Political violence has wracked Argentina since the late sixties. The violence was partially responsible for the economic and political breakdown precipitating the March 1976 coup, and was subsequently used by the junta as a rationale for a no holds barred approach to counter-terrorism. This has resulted in egregious violations of human rights. The United States has responded by cutting back military credits, denying internal security munitions and tailoring its actions in the international financial institutions to reflect its concern with human rights. While Argentine authorities have become increasingly sensitive to human rights criticism and have responded with several conciliatory gestures, there has been very little concrete improvement to date. Human rights violations continue despite public recognition by the government that the terrorists have been largely defeated.

A. Human Rights Conditions in Argentina.1. Respect for the integrity of the person, including freedom froma. Torture

There is no question that security personnel and prison officials use torture although it is prohibited by law and publicly condemned by government officials. The victims are usually suspected terrorists, but leftists, priests and foreign political exiles have been maltreated as well. The government is aware of such activities but generally does not act to limit them.

Accounts of torture within prison facilities and known detention centers on military bases are common. Prisoners are subjected to both physical and psychological torture. They are beaten, given electric shocks, suffocated and subjected to mock executions. Cruelties occur most often during interrogation sessions.

The Department has interviewed Americans held in Argentine prisons including Gwenda Mae Loken Lopez and Patricia Erb. Ms. Lopez was under detention from April until September 1976. She authorized the Department to protest her treatment and this was done in a stiff note. As of mid-1977, the Department was continuing to hear accounts of torture, particularly in connection with the Graiver scandal which broke in April 1977 and led to many arrests for alleged subversive involvements and economic crimes.

ARGENTINA PROJECT (S200000044)

U.S. DEPT. OF STATE, A/RPS/IPS

Margaret P. Grafeld, Director

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80D177
Box 4855

b. Cruel, inhuman or degrading punishment.

The Argentine armed forces have committed themselves to the elimination of terrorist "combatants." This policy has led to the summary execution of prisoners who reportedly had "blood on their hands". These executions are sometimes disguised as shootouts with the security forces or prison escapes. It should be noted that leftist terrorists rarely allow themselves to be taken alive in order to avoid interrogation.

Conditions in Argentine prisons are probably among the best in Latin America. A major exception is applied, however, to individuals being held by the executive power under the state of siege provisions of the Argentine constitution. These are the so-called political prisoners, some being charged with terrorist activities, others being held on unspecified charges of subversion, and others being held without any charges at all. Many of these political prisoners claim that they are detained in very cramped quarters, held incommunicado for long periods, forced to take ice cold baths, fed very sparsely and, in general, treated very roughly. Conditions for these political prisoners appear to have improved since the arrival of the International Committee of the Red Cross which began its program of inspections in January 1977.

c. Arbitrary arrest and imprisonment.

Arrest cases in Argentina fall under two categories: those concerning common crimes which are processed in the normal judicial manner, and state of siege arrests authorized by the Argentine Constitution during periods of internal disorder. The President of Argentina may detain and relocate people under the state of siege provisions but, according to law, he may not convict or apply punishment upon his own authority. The state of siege powers, which were invoked in 1974, have been used to hold a wide variety of persons, many of whom have been held for long periods without formal charges.

Many arrests and abductions under the state of siege have taken place in the middle of the night, sometimes in the form of mysterious abductions. Some people are freed after short periods of interrogation. Others are held incommunicado without charges or formal acknowledgement of their detention.

In late 1976, the Argentine government began to publish lists of individuals released from executive custody. Many of those "released" have been literally freed, while others have

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been formally charged and must stand trial. It is not possible to determine exactly how many of the reportedly "released" prisoners were actually freed. In early 1977, the government also began to publish the names of individuals detained by the executive. However, the names of many persons who have been abducted fail to appear on these lists, even though they are probably detained by the official security forces.

Reliable sources placed the number of persons under executive custody at 5,000 in April 1977. The Department does not know whether this figure still holds roughly true. The Argentines have indicated they wish to make efforts to end the detainees issue in the reasonably near future. The Argentine government has never announced an overall figure, but has claimed to us privately that about 4,000 have been detained over time, of whom about 700 have been released, over half as a result of not-guilty verdicts after trial. Many under arrest are terrorist suspects, but there is no way to determine how many were actually involved with subversive activities, and how many others are held only for their political beliefs.

The problem of disappearances mentioned earlier in this evaluation is a very serious one. There have been thousands of unexplained disappearances. In some cases, they represent guerrillas going underground. In a majority of cases, however, the disappearances appear attributable directly to the security forces. Relatives seeking to determine the whereabouts of disappeared individuals have filed hundreds of writs of habeas corpus. Until recently the executive had made little effort to comply with judicial orders to provide information on disappearance and detention cases, show just cause for arrests, or release prisoners.

On June 9, an Argentine government spokesman acknowledged that the government has received about 2,000 reports of disappearances and said they would be investigated. In May, during a state visit to Venezuela, President Videla admitted that at least some of the disappearances are due to an "excess of repression by the forces of order."

d. Denial of fair public trial.

Prior to the March coup, judges and lawyers were subject to both left and right-wing terrorism, which led to a breakdown of the court system. While the courts are now handling civil and common criminal cases, a system of military justice has evolved for most cases involving accusations of political and economic subversion. The Argentine government looks upon the court system as a way to treat suspects with a degree of due process. The military courts have found some people innocent, reduced

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sentences, and applied a variety of jail sentences. However, in the military justice system, the military acts as both judge and jury. Trials are closed to the public, the defendant is prohibited from being represented by civilian counsel, and there is no right of appeal.

e. Invasion of the home.

When attempting to arrest suspected political subversives, the security police have not hesitated to break into homes. A considerable amount of looting accompanied such break-ins during 1976 but it appears that orders have since been issued to arrest suspects without engaging in theft.

2. Respect for civil and political liberties

a. Freedom of thought, religion, assembly.

The Argentine Consitution guarantees freedom of religion although this has been challenged by the Argentine government in the case of the Jehovah's Witnesses. On August 31, 1976 the government decided to enforce a 1950 decree banning their activities, principally for failure to salute the flag and perform military service. The Witnesses appealed to the Argentine courts. On June 16, 1977, an appeals court ruled that the ban on Witness activities, publications, broadcasts and proselytizing was unconstitutional. The court stated that religious liberty cannot be denied, even though it can be subject to regulation. The government appealed the case to the Supreme Court in July 1977; a decision is awaited.

Anti-Semitism has been a recurrent problem in Argentina, manifesting itself in a number of bombings of synagogues during 1976-77. There were no casualties in these incidents. In April 1977, there were fears that Army hardliners, encouraged by the publication Cabildo, were trying to fan anti-Semitism in connection with the Graiver scandal that led to the arrest of several prominent Jews. The Argentine government responded, however, by banning two issues of Cabildo. This may have been a cause of death threats against the representative of the American Jewish Committee in Buenos Aires, who fled to the United States in July. In a written statement, he viewed his persecution as an effort in part to embarrass President Videla. In a statement to the press on July 8, the Department's spokesman noted the Department's belief that anti-Semitism is not the policy of President Videla or his government, but that the threats against the life of the Jewish representative "may have required the complicity of irresponsible elements within the security forces." Concern about anti-Semitism is heightened by the fact that the Argentine government has not

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condemned it flatly nor punished individuals guilty of terrorist incidents against Jewish establishments. It is not so serious, however, that it has led to any appreciable Jewish emigration from Argentina.

Relations between the Catholic Church and the Argentine government were exacerbated by the publication of a Church document on May 7 criticizing the government's human rights record. One senior Church official who has worked diligently on behalf of human rights commented that the Church fears that rightist elements within the military are trying to provoke a confrontation between the Church and the Videla Government, in order to bring about Videla's fall. The Argentine Church is reportedly trying to avoid lending itself to rightist manipulation.

Freedom of expression and opinion in Argentina has been somewhat restricted by the banning of various right-wing and left-wing publications. The Argentine press is required to exercise self-censorship, and is generally prohibited from mentioning terrorist and counter-terrorist operations unless officially authorized by the government. The clauses in the anti-subversive law defining inadmissible topics for press coverage have been criticized for their vagueness by journalist associations.

The international wire services with offices in Argentina report freely.

The Argentine press generally supports the government; criticism tends to be rare. The English language Buenos Aires Herald has stood out in support of human rights; its editor was jailed briefly in April for making reference to a meeting of Argentine terrorists in Rome. The other liberal daily, La Opinion, has been taken over by the government as a result of the arrest of its editor, Jacobo Timerman, who is being held on economic charges. The free press has suffered as a result of this arrest. Numerous other journalists have suffered intimidation and arrest in Argentina.

Lawyers, politicians, labor leaders, psychologists, psychiatrists and scientists have all suffered varying degrees of repression, leading organizations such as Amnesty International and the U.S. National Academy of Science to voice their concern. Fair legal proceedings have been particularly damaged by right-wing intimidation of lawyers showing any willingness to defend political prisoners.

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b. Freedom of movement within the country, foreign travel and emigration policies.

Freedom of movement within Argentina is the general rule. There are no restrictions placed on foreign travel. The freedom to emigrate may be withheld for men who are about to fulfill the compulsory military service, but in most cases the Argentine citizen is free to settle abroad.

According to a special provision in the Argentine constitution, prisoners being held under the state of siege have the "right of option," i.e., the right to leave the country in lieu of detention. This right was suspended in March 1976, but its reinstatement is currently under review as a result of orders from President Videla. A decision should come by October 1, 1977.

c. Freedom to participate in the political process.

Upon taking power in March 1976, the military junta dissolved the parliament and banned political and labor activity. Since then all political offices have been filled by executive fiat rather than by the electoral process. Political parties have had to suspend their activities. Basic union liberties have also been suspended, including the constitutional right to bargain collectively for wage increases and improvements in working conditions, and the right to strike. Under the Videla government there is little freedom to participate politically. The political parties are showing a little more courage, however, as the Radical party did in June when they criticized the government's human rights record. The Interior Ministry charged the party with engaging in political activities but a lower court dismissed the charges. The government has appealed the case.

3. Recent trends in governmental policies relating to the fulfillment of basic needs for food, shelter, health care and education

a. Policies designed to respond to the needs of the poor and policies which tend to ignore the needs of the poor.

A main objective of the present government of Argentina is sound economic recovery and growth. The economic policies designed to achieve these goals have adversely affected lower income groups, but never to such an extent that they could be

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termed violations of "human rights". The most important policies in this regard are: increased investment in productive capital projects, and the wage/price policy.

Increased government spending on capital investment has forced a decrease in funds set aside for social welfare spending. The current government has budgeted less for public housing, public health and education than the predecessor Peronist regime. By emphasizing wage control with limited price controls, real wages have been forced downward. Our Embassy reports that real wages have decreased on the order of 25 to 30 percent. The policy of wage restraint has been highly controversial. Wage-earners as a group have been disadvantaged in relation to the self-employed and to those who have income from non-wage sources. At the same time, unemployment has been kept relatively low (around four percent) despite the recession.

Trade union representatives and politicians who generally oppose the government's economic policies claim that many low income groups have been reduced to "starvation levels." This is difficult to prove empirically, and seems to be an exaggerated assertion. Nutritional levels are still substantially higher than those in almost all the rest of Latin America. Health care is available and is heavily subsidized. With increased economic growth and a winding down of the war against subversion there probably will be an increased investment in public education.

The Argentine government seeks to improve the lot of the poor primarily through economic growth and productivity and to this end relies largely on the revival of the private sector. Little emphasis has been placed on policies which could directly benefit the poor; their needs have been temporarily ignored.

b. Corruption that may direct significant resources toward the nation's elite and away from those in need.

The Videla government is intent on routing out corruption and its efforts to date have been effective. Corruption in Argentina is held to a low level. It certainly is not of such a nature that significant resources are being diverted to the nation's elite and away from those in need. In a narrow sense, the anti-corruption campaign can be seen as an attempt to "get back at" and discredit previous regimes, especially the Peronist administration. A prime example of politically motivated anti-corruption activity is the Aluar case, in which high-ranking officials of the previous military government are being prosecuted for alleged corruption.

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The military itself, particularly in the higher echelons, continues to enjoy a reputation for honesty in financial matters. Military officers are noted for their zeal in purging society of corruption rather than in collecting their share of the spoils. Some of the means by which authorities seek to punish and reduce corruption are: stricter enforcement of tax laws; government supervision and control of suspect businesses and unions; the stripping of allegedly excessive special privileges from union workers; and the arrest and trial of public officials charged with corruption, fraud, embezzlement and maladministration.

4. Describe the level of the government's responsibility for the foregoing human rights record, including the extent to which positive human rights measures are articulated as public policy or violations condoned as public policy because of security or other justifications. Evaluate the genuineness of those justifications.

The Argentine government is committed to the eradication of terrorism. This generally means that any leftist terrorist caught "with blood on his hands" will be executed. However, according to the government, there is a new program to release some political detainees alleged to have only marginal connections with terrorist elements. With respect to right wing terrorism, we believe that the para-police or para-military bands are subject to the control of the authorities. This is discussed below.

Torture is used regularly to interrogate suspected subversives. Individuals found to be innocent are released with apologies and admonished to remain silent.

The Argentine armed forces and undoubtedly a good portion of the Argentine public condone the use of harsh measures to fight the leftist extremist groups which initiated the cycle of violence in the late sixties. The most prominent of these groups are the Montoneros and the People's Revolutionary Army, who had thousands of combatants. They were able to operate freely during the mid-seventies as a result of their intimidation of political and judicial authorities. By 1974 rightist counter-terrorist organizations began to operate with government sanction. The most notorious rightist group was the AAA (Argentine Anti-Communist Alliance) which persecuted the political enemies of Presidents Juan and Isabel Peron (1973-76). Today, the ranks of the leftist terrorists have been decimated and the members of the AAA dispersed or jailed for common crimes. Even so, leftist terrorists have made four attempts on President Videla's life (the latest in June 1977), almost succeeded in assassinating

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Foreign Minister Guzzetti in May, and continue to kill businessmen, policemen and military officers. Retired officers are easy, preferred targets.

While President Videla makes no secret of his support of harsh counter-terrorism, he has tried to limit ideological and political repression. Such diverse groups as the Catholic Church, Argentine Jewry, the Peronist, Radical and Communist Parties, as well as many center-left figures are convinced that President Videla is a moderating force. In private conversations, Argentines conversant in the Argentine situation counter that repression could not get worse than it is under the Videla administration.

President Videla has admitted publicly that the security forces have committed excesses. He seems to be trying to restrain such excesses, but faces serious opposition from within the military establishment, particularly in the Buenos Aires area, where elements seem dedicated to making political compromise an impossibility for Videla. Among other things, some of these elements are held responsible for the mass arrests in April 1977 in the Graiver scandal, which had anti-Semitic overtones, for the jailing of former President Lanusse (subsequently released), and for the intimidation of the Argentine representative of the American Jewish Committee.

The Argentine government appears to be trying to use the courts and the legal system as a means for restoring institutional order. The government's willingness to accept court rulings on the Radical Party, which criticized the GOA despite a ban on political activity, and Jehovah's Witnesses will be another important human rights indicator.

The restoration of the "right of option", whereby prisoners under executive custody may opt for voluntary exile, is under active study. Its restoration might contribute to the release of many prisoners and be further evidence of a change in policy concerning human rights.

Accounting for prisoners and disappearance cases will be the most difficult area for positive action by the government. A beginning was made in late 1976 as the names of those released from executive custody became public; in early 1977 the government began to list those detained by the executive. These lists are incomplete, however, because most of the kidnap victims of the security forces are never acknowledged.

The accounting problem is far more difficult than most outsiders think. Various units of the three armed forces and the

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police are known to keep their own prisoners without always reporting their identities, status and final disposition. Such prisoners are not always subject to the immediate control of the government but are under the control of particular services or elements. This was the case in the affair of Senator Solari Yrigoyen, left-of-center democrat who was expelled to Venezuela in May despite the probable opposition of important governmental elements. One of Solari's companions, Representative Abdel Amaya, reportedly died as the direct result of torture. Other political and labor leaders have also been caught up in these secret arrests. The objective of such secret arrests appears to be to use civilians as pawns for bargaining with the church, labor, and the political parties as well as to prevent efforts by moderate military elements to reach accommodations with such groups.

In sum, human rights violations as they apply to the elimination of terrorists are government policy; the end justifies the means to the GOA. Repression in Argentina is not limited to official governmental acts. The internecine struggle within the security forces, which is a reflection of the general political instability in Argentina, has led to substantial human rights violations.

5. Describe past and present willingness of the government to accept independent, outside investigation of alleged human rights violations.

An Amnesty International delegation visited Argentina in November 1976. During the visit several plainclothes policemen ostensibly assigned to protect the delegates, followed them wherever they went, and questioned and even detained a number of people whom they met. The Amnesty report, published in March 1977 was highly critical of the Argentine government's human rights practices. We believe the Amnesty report was generally accurate.

The International Committee of the Red Cross established an office in Buenos Aires in January 1977. It has visited most prisons but does not have access to military bases. Conditions in prisons such as the one at La Plata, where summary executions have been reported, appear to have improved as a result of the ICRC's program.

American officials have suggested to the Argentine government that the Inter-American Human Rights Commission be invited but no action has been forthcoming.

In August, the House Inter-American Subcommittee visited Argentina and will presumably report on conditions there.

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The Argentine government has shown itself very willing to discuss human rights with American officials, including the Coordinator for Humanitarian Affairs, Patricia Derian, who visited Buenos Aires in April and again in August 1977.

In late 1976, the Foreign Ministry established a Human Rights Working Group through which foreign embassies could channel requests for information on Argentine and third country nationals.

B. Analysis and Recommendations

1. Identify legitimate objectives over the next three, six, twelve months in relation to improving conditions in Argentina, with respect to categories A 1, 2 and 3 above.

a. Publication of a list of all persons under executive custody.

This step has been urged repeatedly by U.S. diplomats as well as human rights organizations so that families may learn whether next of kin are in prison. This would help to clear up the question of disappearances. Its publication will depend almost entirely on the political situation in Argentina, since the acknowledgement of prisoners will raise many questions about what happened to those who are not listed as under detention. We should continue to press diplomatically for such a list while recognizing that other steps outlined below are probably a necessary prelude to this step. This is possibly a twelve month objective.

b. Regularized detention procedures.

If the security forces would acknowledge the arrest of prisoners, this would likely contribute greatly to the end of summary executions and disappearances, and help to reduce torture. With the Argentine government holding the upper hand over terrorism, it should be able to acknowledge openly whom it is arresting. Such an acknowledgement in no way threatens the government's political power. Nor does it force the government to look back and punish its own security forces. Argentina's military hardliners have of course resisted any form of accounting. While we should be forthcoming if all arrests are acknowledged as they take place, we should modulate any internal security arms sales carefully to reflect whether families and lawyers have access to prisoners and whether detainees who are not charged promptly are released. This is an immediate objective although realization probably depends upon the consolidation of President Videla's power.

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c. Reestablish full jurisdiction of the civilian courts.

This will likely be a long-term process, one not accepted readily by the Argentine military in cases they define as subversive.

d. Investigate and try persons guilty of abusing prisoners.

Exemplary action by the Argentine government in this field would help bring an end to torture while the situation should improve sharply as detention procedures are regularized, interim action in this area would reflect GOA seriousness to end abuses. It is unlikely the GOA will act on past abuses, but it should take action against present and future abuses.

e. Permit detainees to seek asylum abroad.

This is possibly the most realizable of our priority human rights goals and represents a uniquely Argentine solution to the problem of political prisoners, i.e. the "right of option" is a constitutional right in Argentina. Argentine officials have told us that the government is considering restoration of this right. If accompanied by the release/exile of uncharged prisoners, it would help significantly to alleviate the problem of political prisoners. The GOA probably expects that we will respond to reinstatement of the right by easing our restrictions against Argentina. Failure to do so would suggest to the GOA that we did not recognize a significant human rights improvement.

f. Greater respect for other political and civil liberties.

We should press for concrete steps towards greater respect for other political and civil liberties. For example, we should seek an end to government bans on particular publications; the removal of prohibitions on press coverage of certain topics; a reinstatement of the "right of option"; and an end to government restrictions on labor activity and political organizations.

2. Identify actual or anticipated reaction in Argentina, pro and con, to the new US human rights policy and to actions and proposed actions in support of those policies, including reactions of the government, opposition leaders, Church, influential private groups and the general public.

Our Embassy in Buenos Aires understands fully the importance attached to human rights by the new Administration. Human Rights Coordinator Derian made her first visit as Coordinator to Argentina and communicated the Administration's sense of priority. The Embassy was already actively engaged on behalf of human rights. The Argentine government learned in September 1976 that we would probably

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be unable to support their loan projects in the Inter-American Development Bank if Argentina were determined to be a "gross violator" under the Harkin Amendment. The Argentine government has not chosen to test us in the Bank. Both before and since then, our Embassy has discussed the question of human rights at literally every level of the Argentine government.

In the recent past, the Argentine government has received confused signals. It feels that Secretary Kissinger was understanding of the Argentine problem and therefore disinclined to take action that would seriously affect Argentina's interests. Former Ambassador Hill left Argentina in May and publicly criticized the new Administration's approach to human rights in a July interview with a major Argentine magazine. Nonetheless, the Argentines have now realized that this Administration does have a continuing commitment to press for improvement in the human rights situation, most recently exemplified by the President's representations to Videla.

Government reaction in Argentina, at least within the armed forces, appears to be hostile. The Argentine military resents deeply our military sanctions, coming at a time when many of them believe they are engaged in a fight against Marxism. They also assert that we have applied a double standard. They claim we are ignoring human rights abuses in the case of South Korea, for example, where US security is at stake, but not when Argentina's security (from terrorism) is involved.

Civilian opposition leaders, notably those in the Peronist and Radical parties, seem ambivalent about the new Administration's approach. They want us to pressure the Argentine government to respect human rights and move towards civilian rule. This is particularly important to them as the terrorist problems are brought under control. They fear, however, that we might go too far and possibly cause President Videla's downfall and greater political repression.

The Catholic Church in Argentina shares the Administration's concern for human rights and has criticized the GOA. It is fearful, however, of playing into the hands of extremists on either side of the political spectrum.

Conservative intellectuals probably distrust our motives, concluding that the Administration has chosen human rights as a banner to fight communism and for domestic political gain. The conservative Argentine media reflects this opinion. The liberal community in Argentina, particularly those who care about human rights, endorse and take heart from the Administration's approach.

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3. Evaluate reactions in 2 above in terms of the implications for positive and negative changes in the human rights conditions.

At least for the next few years, the fate of human rights in Argentina will almost certainly be in the hands of the Argentine military, either as rulers or overseers of a civilian regime. While no doubt unhappy over our human rights-related actions, the Videla Administration seems to care seriously about its image in the Western world, and it wants to do all it can to preserve whatever relationships it can with the United States * as it goes through what it hopes is a transitional period. In addition, senior Administration officials have made it clear to the Videla Administration that we very much want to involve ourselves constructively in Argentina, if they will only do their part to improve their human rights practices. We have welcomed into our hospitals Argentine soldiers victimized by terrorism.

Civilian democratic leaders in Argentina appear to view the Administration's policies as a brake against greater repression in Argentina and a source of support for a return to constitutional rule. They are concerned, however, that we might push too hard.

4. Evaluate the impact of U.S. actions on other U.S. interests in Argentina, most notably in the field of nuclear non-proliferation.

Argentina has the most advanced nuclear technology in Latin America and is moving to acquire an indigenous, possibly unsafeguarded, reprocessing capability.

Up to now US interests have not suffered appreciably as a result of our policies. If we were to decide to deny all arms transfers, it seems likely that Argentina might refuse access to its airports and shores for US military aircraft and vessels. Arms denials are also orienting the Argentine military toward Europe and self-sufficiency.

In the economic field, it can be assumed that the Argentines will seek to deal with Europe whenever possible. Argentina is not an important supplier to our markets.

If we were to seek to block economic credits to Argentina, particularly commercial credits, Argentina would probably adopt

* See Appendix A.

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an anti-US posture and seek to influence other authoritarian governments in Latin America to join with them. Despite its anti-communist posture, in the economic pinch, Argentina might also develop a more active economic relationship with the communist world, with which it enjoys a trade surplus of about \$350 million.

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